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Attorneys for Defendant Save On SP, LLC

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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| <p>JOHNSON & JOHNSON HEALTH CARE SYSTEMS INC.,</p> <p>Plaintiff,</p> <p>v.</p> <p>SAVE ON SP, LLC,</p> <p>Defendant.</p> | <p>Civil Action No. 22-2632 (ES)(CLW)</p> <p><i>Document Electronically Filed</i></p> <p>DECLARATION OF E. EVANS WOHLFORTH, JR., ESQ., IN SUPPORT OF MOTION TO SEAL</p> |
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I, E. Evans Wohlforth, Jr., submit this Declaration in support of Defendant Save On SP, LLC's ("SaveOnSP") Motion to Permanently Seal the Joint Letter regarding de-designation of the Patient List dated June 2, 2023 [ECF No. 109] and the Joint Letter regarding RFPs 61 and 62 dated June 2, 2023 [ECF No. 110].

1. I am an attorney duly authorized to practice law in the State of New Jersey and a member in good standing of the bar of this Court. I am a member of the law firm of Robinson & Cole, LLP, counsel for SaveOnSP.

2. I submit this Certification in accordance with Local Civil Rule 5.3 based upon my personal knowledge in support of the Motion to Seal. The information that SaveOnSP seeks to seal consists of SaveOnSP's internal information about its business operations, clients, and financials, which SaveOnSP asserts is proprietary business information.

3. In accordance with Local Civ. R. 5.3(c)(3), attached hereto as Appendix A is a table documenting all materials to be sealed, the nature of the materials to be sealed, the legitimate private or public interest which warrants the relief sought, the clearly defined and serious injury that would result if the relief sought is not granted; and why a less restrictive alternative to the relief sought is not available. In summary, the information that SaveOnSP seeks to protect from public disclosure is SaveOnSP's proprietary business information.

4. In accordance with Local Rule 5.3(c)(3)(f), this office contacted Plaintiff's counsel via e-mail to inquire as to Plaintiff's position on whether the redacted portions of the Confidential Documents should remain sealed. JJHCS consents to SaveOnSP's proposed redactions to the Joint Letter regarding RFPs 61 and 62 dated June 2, 2023, and the exhibits thereto [ECF No. 110] and to Exhibit A to the Joint Letter regarding de-designation of the Patient List, dated June 2, 2023 [ECF No. 109]. JJHCS objects to SaveOnSP's proposed redactions to the Joint Letter regarding de-designation of the Patient List dated June 2, 2023 [ECF No. 109] and believes those sections should be part of the public record, like the rest of the text of the letter. JJHCS has informed SaveOnSP that it intends to file a letter with the Court explaining the basis of its objection.

5. Redacted versions of the Confidential Documents are being filed with this Motion pursuant to Local Rule 5.3(c)(4), to ensure that the sealing is by the least restrictive means possible. ECF Nos. 117-1 and 117-2.

6. SaveOnSP asserts that it has a legitimate interest in maintaining the confidentiality of the redacted information contained in the Confidential Documents and in avoiding the public disclosure of this information because it includes SaveOnSP's proprietary business information, the disclosure of which would grant SaveOnSP's business competitors an unfair competitive advantage. *See e.g., Rosario v. Doe*, No. CIV. 08-5185 RMB, 2013 WL 3283903, at *2-3 (D.N.J. June 25, 2013) (Bumb, J.) (sealing records containing private medical information or proprietary information); *Goldenberg v. Indel, Inc.*, 2012 WL 15909, at *3 (D.N.J. Jan. 3, 2012) (granting motion to seal "commercially sensitive and proprietary non-public business information"); *Bracco Diagnostics, Inc. v. Amersham Health Inc.*, 2007 WL 2085350, at *9-10 (D.N.J. July 18, 2007) (granting motion to seal where the public availability of documents containing confidential business information would have put a party at a competitive disadvantage).

7. SaveOnSP further asserts that it has an interest in maintaining the confidentiality of the redacted information contained in the Joint Letter regarding de-designation of the Patient List dated June 2, 2023 [ECF No. 109] and that such information should be sealed over JJHCS's objection. SaveOnSP seeks to redact information, pulled from SaveOnSP's internal, confidential records, regarding the amount of fees SaveOnSP has received from its clients from services related to Janssen drugs and the amount of savings on Janssen drugs that SaveOnSP has achieved for its clients. The disclosure of this information would harm SaveOnSP by granting competitors and other industry participants unfair insight into SaveOnSP's and its clients' finances, and thus

should remain under seal. *Goldenberg*, 2012 WL 15909, at *4 (granting motion to seal “sensitive financial information”).

8. Accordingly, SaveOnSP respectfully requests that the Court seal the unredacted Confidential Documents. SaveOnSP submits that there is no less restrictive alternative available.

9. SaveOnSP respectfully submits that it has satisfied the criteria for sealing a judicial record set forth in Local Civil Rule 5.3. Accordingly, SaveOnSP requests that the Court grant its motion to seal materials.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: June 16, 2023

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